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PCT

PATENT
ATTORNEY DOCKET NO. 057309-5001-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : David M. Long *et al.*

U.S. Application No.: 10/018,551 ✓

International Appln. Filing Date: July 2, 1999

Group Art Unit: Unassigned

Date of National Stage Entry: December 20, 2001

Examiner: Unassigned

For: IN VIVO ADDITION OF TELOMERIC REPEATS TO
EXOGENOUS DNA GENERATES
EXTRACHROMOSOMAL DNAs IN THE FUNGUS
PESTALOTIOPSIS

MAIL STOP PCT

RENEWED PETITION FOR FILING AN APPLICATION UNDER 37 C.F.R. §1.47(a)
and 37 C.F.R. § 1.137(b) with accompanying STATEMENT OF FACTS IN SUPPORT
THEREOF

Sir:

This Renewed Petition is being submitted in response to the Decision on Petition Under 37 C.F.R. § 1.47(a) and 37 CFR 1.137(b) ("Decision") mailed July 29, 2003, which dismissed the petition. The Decision dismissed the petition because a properly executed declaration had not been submitted by the petitioner.

As a initial matter, we note that Decision was not received by petitioner until January 6, 2004, after petitioner inquired about the status of the case via telephone and the Office of PCT Legal Administration faxed a copy of the Decision to petitioner. Petitioners did not timely receive the Decision because it was sent to the following (old) incorrect address:

Morgan Lewis & Bockius LLP
 1800 M Street, N.W.
 Washington, D.C. 20036

However, the following is the petitioner's correct address:

Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

U.S. Patent Application No. 10/018,551 was filed on December 20, 2001, and the associated Transmittal Letter listed the associated Customer Number as "09629". An Address Change Letter was filed with the U.S. PTO on January 1, 2002, changing the address for all of the applications associated with Customer Number 09629 to the 1111 Pennsylvania Avenue, N.W., address. The Response to Notification of Missing Requirements filed on April 18, 2003, listed the 1111 Pennsylvania Avenue, N.W., address. Furthermore, petitioners also filed a Status Inquiry on September 10, 2003, to which they have not received a reply. Thus, The U.S. PTO was given timely and proper notice that petitioner's address had changed about 19 months prior to the mailing date of the Decision. Furthermore, petitioner attempted to check on the status of the application, indicating that they were concerned about its status. In a conversation between the undersigned on January 12, 2004 during which the address problem was discussed, PCT Legal Examiner R. Bacares recommended that petitioner file this Renewed Petition without any EOT fees. For these reasons, petitioners hereby request that this Renewed Petitioner be view as being timely filed within the initial two month time period set by the Decision.

In response to the Decision's requirement to provide proper declarations, please find enclosed properly executed declarations signed by Mr. Smidansky and Mr. Strobel on their behalf and on the behalf of the nonsigning joint inventor David M. Long.

As indicated in the Decision, petitioners acknowledge that there is no additional petition fee due with this submission.

Petitioners believe that this Renewed Petition satisfies all of the requirements set forth in the Decision. Applicants respectfully request that the application immediately be processed for examination.

However, except for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §1.16 and §1.17 which may be required, or credit any overpayment to Deposit Account No. 50-0310. Specifically, the Commissioner is authorized to charge a 3 month EOT fee under 37 C.F.R. 1.136(a) if this Renewed Petition is not found to be timely filed despite petitioner's arguments to the contrary, as set forth above.

Respectfully submitted,
MORGAN, LEWIS & BOCKIUS LLP

Date: January 13, 2004

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